

REMARKS

Applicants thank the Examiner for the detailed Office Action dated January 27, 2006. Applicants respectfully request reconsideration of the present application in view of the reasons that follow.

Claims 1-58 were pending in the application. Claims 8-12 and 15-19 are requested to be cancelled without prejudice or disclaimer. Claims 1, 36, 46, and 49 are currently being amended. Claims 59-68 are being added. After amending the claims as set forth above, claims 1-7, 13-14, 20-68 are now pending in this application.

For simplicity and clarity purposes in responding to the Office Action, Applicants' remarks are primarily focused on the rejections of the independent claims (i.e., claims 1, 14, 31, 52 and 55) outlined in the Office Action with the understanding that the dependent claims that depend from the independent claims are patentable for at least the same reasons (and in most cases other reasons) that the independent claims are patentable. Applicants expressly reserve the right to argue the patentability of the dependent claims separately in any future proceedings.

Independent Claims 1, 31, and 52

On page 2 of the Office Action, independent claims 1, 31, and 52 and various dependent claims were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,729,106 (Barbieri) in view of U.S. Patent No. 6,421,593 (Kempen et al.).

Applicants respectfully submit that the combination of Barbieri and Kempen et al. does not show all of the elements recited in independent claims 1, 31, and 52. Each independent claim is considered separately in the following.

With regard to claim 1, neither of these two references shows a "refuse vehicle" that includes a "control system" "configured to immediately disable the output device when the transmission is put into gear." Applicants respectfully submit that the output device in Barbieri is only disabled if the transmission remains in gear too long (i.e., six seconds) after activating the

power take off. (Barbieri, col. 5, lines 31-68.) Thus, the output device is not immediately disabled when the transmission is put into gear.

With regard to claim 31, neither of these two references shows a “refuse vehicle” that includes a “control system” “configured to disable the output device when the refuse vehicle is moving in reverse.” The Office Action does not explain what portion of Barbieri is being relied on to show this subject matter. Applicants have also been unable to locate any description of disabling an output device when the refuse vehicle is moving in reverse in Barbieri. In this regard, Applicants note two things - first, “drive” as used in Barbieri is not reverse and second, Barbieri describes the vehicle being stationary while claim 31 recites the control system being configured to disable the output device when the refuse vehicle is **moving** in reverse. Accordingly, Applicants respectfully submit that neither of these two references show a control system configured to disable the output device when the refuse vehicle is moving in reverse. If the Patent Office disagrees, Applicants request that the Patent Office provide further clarification sufficient for Applicants to understand what subject matter in the cited references is being used to support the rejection.

With regard to claim 52, neither of these two references shows a “refuse vehicle” that includes a “control system” comprising “a plurality of input devices including an emergency stop” where “the control system is configured to disable the plurality of output devices when the emergency stop is activated.” The Office Action does not explain what portion of Barbieri is being relied upon to show the emergency stop and the control system which is configured to disable the plurality of output devices when the emergency stop is activated. Applicants have also been unable to locate any description of an emergency stop in Barbieri. Accordingly, Applicants respectfully submit that neither of these two references show a control system configured to disable the plurality of output devices when the emergency stop is activated. If the Patent Office disagrees, Applicants request that the Patent Office provide further clarification sufficient for Applicants to understand what subject matter in the cited references is being used to support the rejection.

Applicants respectfully submit that the subject matter recited in independent claims 1, 31, and 52 and the claims which are dependent thereon, considered as a whole, would not have been obvious to a person of skill in the art and are patentable. Accordingly, Applicants request withdrawal of the rejection of the claims under 35 U.S.C. § 103(a).

Independent Claims 55

On page 3 of the Office Action, independent claim 55 and various dependent claims were rejected under 35 U.S.C. § 103(a) as being unpatentable over Barbieri in view of Kempen et al. and U.S. Patent No. 6,269,295 (Gaugush et al.).

Applicants respectfully submit that the combination of these three references does not show all of the elements recited in independent claim 55. For example, none of these references describe a “method for controlling a refuse vehicle” including, *inter alia*, “disabling a plurality of output devices of the refuse vehicle when a transmission of the refuse vehicle is in gear,” “enabling the plurality of output devices when a brake of the refuse vehicle is engage,” and “disabling the plurality of output devices when the brake pedal is disengaged.” The Office Action does not explain where these limitations are shown. The Office Action states that Gaugush shows “moving the transmission out of gear when a brake is applied and moving into gear when the break is disengaged.” It is unclear to Applicants how this leads to the conclusion that if this feature was combined with Barbieri the result would be the subject matter recited in claim 55.

For example, Barbieri describes the refuse vehicle being stationary during the packing operation. (Barbieri, col. 1, lines 21-30; col. 5, lines 28-30.) Also, moving the transmission in and out of gear does not result in disabling the compactor. Rather, as far as Applicants can tell, the compactor is only disabled when the transmission **is left in gear too long** (i.e., six seconds) after enabling the compactor. (Barbieri, col. 5, lines 31-68.) Therefore, including the braking system of Gaugush into Barbieri may result in the transmission going into and out of gear, but this does not result in the compactor being disabled and enabled as recited in claim 55.

Applicants further submit that there is no motivation, teaching, or suggestion to combine the references in the manner asserted in the Office Action because the timing of the shifting of the transmission into neutral is critical to the sequence of events shown in Barbieri and the use of the braking device of Gaugush would cause the operator to take additional steps to activate the compactor. For example, Barbieri explains that the transmission needs to be in drive in order to start the compactor and the shifted into neutral in six seconds. (Barbieri, col. 5, lines 31-68.) if the refuse vehicle used the braking device of Gaugush, then when the refuse vehicle stopped it would be in neutral forcing the driver to shift it back into drive in order to begin the process of enabling the compactor. The Patent Office has failed to provide a motive explaining why one of skill would want to do this when faced with a significant disadvantage like this. To the extent the Patent Office disagrees, the Patent Office is required to make particular findings regarding why the skilled artisan, viewing each reference as a whole and with no knowledge of the claimed invention, would have combined the cited references in the manner asserted in the Office Action to provide the subject matter of independent claim 55 in spite of these reasons. See In re Kotzab, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000) (holding that the Patent Office must make “particular findings . . . as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed.”).

Applicants respectfully submit that the subject matter recited in independent claim 55 and the claims which are dependent thereon, considered as a whole, would not have been obvious to a person of skill in the art and are patentable. Accordingly, Applicants request withdrawal of the rejection of the claims under 35 U.S.C. § 103(a).

Independent Claim 14

On page 3 of the Office Action, independent claim 14 was rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,540,037 (Lamb et al.) in view of Kempen et al.

Applicants respectfully submit that the combination of these two references does not show all of the elements recited in independent claim 14. For example, none of these references show a “refuse vehicle” including, *inter alia*, a “control system” including an “output device” where the “control system is configured to disable the output device when the refuse vehicle reaches a threshold speed.” The Patent Office states in the Office Action that Lamb et al. discloses an output device and disabling it when the vehicle reaches a certain speed. Applicants note, however, that the passage of Lamb et al. cited by the Patent Office only states that the lawn mower is capable of operating in two modes - transport mode or mow mode. In one mode the mower is always disabled and in the other mode the mower is always enabled. Neither of the modes is configured so that the mower is initially enabled but is then disabled only once the mower reaches a certain speed.

Applicants respectfully submit that the subject matter recited in independent claim 14, considered as a whole, would not have been obvious to a person of skill in the art and are patentable. Accordingly, Applicants request withdrawal of the rejection of the claims under 35 U.S.C. § 103(a).

Allowable Subject Matter

Applicants thank the Examiner for indicating that claims 46-48 are allowed and that claims 8-12, 15-19 and 34 contain allowable subject matter if rewritten in independent form. Applicant has rewritten claims 8, 10, 15, 17, 18, and 19 in independent form.

New Claims

Applicants have added new claims 59-68. These claims correspond to dependent claims 8, 10, 15, 17, 18, and 19, which were indicated as containing allowable subject matter in the Office Action.

* * *

Applicants respectfully submit that the present Application is in condition for allowance. Applicants request reconsideration and allowance of the pending claims. The Examiner is invited to contact the undersigned by telephone if the Examiner needs anything or if a telephone interview would advance the prosecution of the present application.

Applicants respectfully put the Patent Office and all others on notice that all arguments, representations, and/or amendments contained herein are only applicable to the present patent application and should not be considered when evaluating any other patent or patent application including any patents or patent applications which claim priority to this patent application and/or any patents or patent applications to which priority is claimed by this patent application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

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